

SENATE BILL 811

C4

2lr2443
CF 2lr2518

By: **Senator Astle**

Introduced and read first time: February 3, 2012

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Fraud Violations – Fines and Administrative Penalties**

3 FOR the purpose of providing that a certain fine imposed for certain insurance fraud
4 violations is mandatory and not subject to suspension; authorizing the
5 Maryland Insurance Commissioner to impose an administrative penalty, not
6 exceeding a certain amount, for certain insurance fraud violations under certain
7 circumstances; authorizing the Commissioner, for certain insurance fraud
8 violations, to order restitution to certain insurers or self-insured employers of
9 certain proceeds paid; requiring the Commissioner to consider certain factors in
10 determining the amount of a certain administrative penalty; providing that the
11 Commissioner may bring a civil action for the nonpayment of a certain
12 administrative penalty under certain circumstances; and generally relating to
13 the authority of the Maryland Insurance Commissioner to impose fines and
14 administrative penalties and order restitution for insurance fraud violations.

15 BY repealing and reenacting, with amendments,

16 Article – Insurance
17 Section 27–408
18 Annotated Code of Maryland
19 (2011 Replacement Volume)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article – Insurance**

23 27–408.

24 (a) (1) A person that violates § 27–407 of this subtitle, or another
25 provision of this subtitle in which the claim or act that is the subject of the fraud has a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 value of \$300 or more is guilty of a felony and on conviction, for each violation, is
2 subject to:

3 (i) liability for restoring to the victim the property taken or the
4 value of the property taken; and

5 (ii) 1. for a violation of any provision of § 27-403 of this
6 subtitle, a fine, the maximum of which is the greater of three times the value of the
7 claim or act that is the subject of the fraud and \$10,000 and the minimum of which is
8 \$500, or imprisonment not exceeding 15 years or both; and

9 2. for a violation of any provision of § 27-404, § 27-405,
10 § 27-406, § 27-407, or § 27-407.1 of this subtitle, a fine not exceeding \$10,000 or
11 imprisonment not exceeding 15 years or both.

12 (2) A person that violates a provision of this subtitle in which the
13 claim or act that is the subject of the fraud has a value of less than \$300 is guilty of a
14 misdemeanor and on conviction, for each violation, is subject to:

15 (i) liability for restoring to the victim the property taken or the
16 value of the property taken; and

17 (ii) 1. for a violation of any provision of § 27-403 of this
18 subtitle, a fine, the maximum of which is the greater of three times the value of the
19 claim or act that is the subject of the fraud and \$10,000 and the minimum of which is
20 \$500, or imprisonment not exceeding 18 months or both; and

21 2. for a violation of any provision of § 27-404, § 27-405,
22 § 27-406, § 27-407, or § 27-407.1 of this subtitle, a fine not exceeding \$10,000 or
23 imprisonment not exceeding 18 months or both.

24 (b) (1) The penalties imposed under this section may be imposed
25 separately from and consecutively to or concurrently with a sentence for another
26 offense based on the act that constitutes a violation of this subtitle.

27 (2) Each act of solicitation under § 27-407 of this subtitle constitutes a
28 separate violation for purposes of the penalties imposed under this section.

29 (3) Notwithstanding any other provision of law, a fine imposed under
30 **[this] SUBSECTION (A) OF THIS** section is mandatory and not subject to suspension.

31 **(C) (1) IN ADDITION TO ANY CRIMINAL PENALTIES THAT MAY BE**
32 **IMPOSED UNDER THIS SECTION, ON A SHOWING BY A PREPONDERANCE OF**
33 **EVIDENCE THAT A VIOLATION OF THIS SUBTITLE HAS OCCURRED, THE**
34 **COMMISSIONER MAY:**

1 **(I) IMPOSE AN ADMINISTRATIVE PENALTY NOT EXCEEDING**
2 **\$25,000 FOR EACH ACT OF INSURANCE FRAUD; AND**

3 **(II) ORDER RESTITUTION TO AN INSURER OR SELF-INSURED**
4 **EMPLOYER OF ANY INSURANCE PROCEEDS PAID RELATING TO A FRAUDULENT**
5 **INSURANCE CLAIM.**

6 **(2) IN DETERMINING THE AMOUNT OF AN ADMINISTRATIVE**
7 **PENALTY, THE COMMISSIONER SHALL CONSIDER:**

8 **(I) THE NATURE, CIRCUMSTANCES, EXTENT, GRAVITY, AND**
9 **NUMBER OF VIOLATIONS;**

10 **(II) THE DEGREE OF CULPABILITY OF THE VIOLATOR;**

11 **(III) PRIOR OFFENSES AND REPEATED VIOLATIONS OF THE**
12 **VIOLATOR; AND**

13 **(IV) ANY OTHER MATTER THAT THE COMMISSIONER**
14 **CONSIDERS APPROPRIATE AND RELEVANT.**

15 **(3) IF AN ADMINISTRATIVE PENALTY IS NOT PAID AFTER ALL**
16 **RIGHTS OF APPEAL HAVE BEEN WAIVED OR EXHAUSTED, THE COMMISSIONER**
17 **MAY BRING A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION TO**
18 **COLLECT THE ADMINISTRATIVE PENALTY, INCLUDING EXPENSES AND**
19 **LITIGATION COSTS, REASONABLE ATTORNEY’S FEES, AND INTEREST.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2012.